IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6111 OF 2004

Shri Satish Jankiram Dharrao .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr.N.V.Bandiwadekar for the petitioner

Mr.R.D.Rane, Addl.G.P. for respondent no.1 and 2

**CORAM: A.P.SHAH &**
**S.U.KAMDAR, JJ**

**DATED: 1ST SEPTEMBER, 2004**

ORAL JUDGMENT (PER S.U.KAMDAR, J.):

1. The petitioner in the present petition is challenging the order dated 13th August, 2003 passed by the 2nd respondent. Thereby the approval granted to the petitioner to the post of Shikshan Sevak was cancelled on the ground that there has been a backlog of reservation in the institution which the management has failed to filled in. Some of the facts of the present case are as under:

2. The petitioner is M.Sc. B.Ed. and duly qualified to be appointed as Assistant Teacher. The petitioner was appointed as Assistant Teacher on 8th June 1998 on part time basis. On 15th June 1999, the petitioner was appointed as a full time Assistant Teacher on a probation for a period of 2 years. On 1st July 2000, the approval was granted by the 2nd respondent to the appointment of the petitioner. However, it was made clear that the said appointment is subject to clearance of backlog of reservation. On 14th December 2001, a permanent approval was granted to the petitioner as an Assistant Teacher in the respondent no.4 College. However, for the year 2002-2003 onwards the proposal of the petitioner was kept pending and ultimately by an impugned order dated 13th August 2003 the approval has been finally cancelled on the ground of backlog in reserved category.

3. There is no serious dispute before us that there has been a backlog in the reserved category for the purpose of appointment in the post of

Shikshan Sevak in 4th respondent college. However, the number of vacancies available and the number of vacancy falling under the reserved category is required to be determined.

4. The impugned order is passed by the respondent no.2 without giving any opportunity of hearing either to the petitioner or respondent no.4 College. In view thereof we are of the opinion that the matter is required to be remanded back to the authorities for a fresh consideration after giving an opportunity of personal hearing to both the petitioner and the respondent no.4 college.

5. Accordingly, we set aside the impugned order dated 13th August, 2003 and remand the matter back for reconsideration to the Deputy Director of Education, Nashik Region, Nashik to decide the matter afresh after giving an opportunity of hearing to the petitioner and 4th respondent College. The Deputy Director shall pass a speaking order after hearing both the parties. The Deputy Director shall decide the matter within a period of

8 weeks from today. In an event if there is an adverse order passed against the petitioner then the same shall not be implemented for a period of 2 weeks from the date of communication of the said order to the petitioner herein.

6. With the aforesaid direction, we dispose of the present petition. Petition is disposed of accordingly. However, there shall be no order as to cost.

Parties to act on a copy of this order duly authenticated by the Court Stenographer.